UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA

PELLEGRINO FOOD PRODUCTS, INC.,

Plaintiff,

v.

RHEON U.S.A.,

Defendant/Counterclaim Plaintiff,

v.

PELLEGRINO FOOD PRODUCTS COMPANY, INC. a/k/a PELLEGRINO FOOD PRODCUCTS, INC.,

Counterclaim Defendant,

and

CALIFORNIA FIRST LEASING CORPORATION,

Counterclaim Defendant.

Case No.: 1:05-CV-00189

MOTION OF COUNTERCLAIM DEFENDANT CALIFORNIA FIRST LEASING CORPORATION TO DISMISS COUNTERCLAIM COUNTS VIII, IX, X & XI PURSUANT TO FED. R. CIV. P. 12(b)(6), OR ALTERNATIVELY, TO CHANGE VENUE PURSUANT TO 28 U.S.C. §1404(a)

The Counterclaim Defendant, California First Leasing Corporation ("CalFirst"), by and through its counsel, submits this motion to dismiss Counterclaim Counts VIII, IX, X & XI pursuant to Fed. R. Civ. P. 12(b)(6), or alternatively, to change venue pursuant to 28 U.S.C. §1404(a), and states:

1. In support of its motion to dismiss, CalFirst relies on and incorporates by reference its Memorandum of Law in Support of Motion to Dismiss Pursuant to Fed. R. Civ. P. 12(b)(6).

2. In support of its motion to change venue, CalFirst relies on and incorporates by reference its Memorandum of Law in Support of Motion For Change of Venue Pursuant to 28 U.S.C. §1404(a), the Affidavit of Rah-Miel Mitchell, the Affidavit of James H. Motley, and the Affidavit of Barbara Bumblis, and the Exhibits annexed thereto.

3. CalFirst requests oral argument on its motions.

WHEREFORE, Counterclaim Defendant California First Leasing Corporation respectfully requests that this Court enter an Order granting its motion to dismiss, or alternatively, changing venue to the United District Court for the Central District of California (Southern Division), in the form submitted herewith.

Respectfully submitted,

McCARTER & ENGLISH, LLP

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Dated: October 17, 2005